

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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MARISOL JAVIER, as the Mother and Natural Guardian  
of A [REDACTED] J [REDACTED] an infant under the age of fourteen  
(14) years, and MARISOL JAVIER, Individually

Index No.: 25643/2015

Plaintiffs,

AFFIDAVIT OF  
MARISOL JAVIER

-against-

HYDE LEADERSHIP CHARTER SCHOOL, PETER  
ANDERSON, JANE DOE TEACHER and NEW YORK  
CITY DEPARTMENT OF EDUCATION,

Defendants.

-----X  
STATE OF NEW YORK )  
 )ss:  
COUNTY OF WESTCHESTER )

MARISOL JAVIER, being duly sworn, deposes and says:

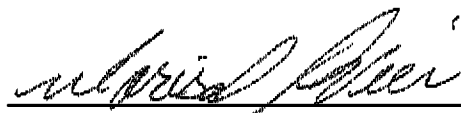
1. I am the mother and natural guardian of A [REDACTED] J [REDACTED]. I have personal knowledge of A [REDACTED]'s medical history and his current physical condition. My affidavit, along with the response of Dr. Alejandra I Sacasa, MD and the affidavit of Joseph A. Maria, Esq., is being submitted in support of my application for the Court's judicial approval of the settlement of the above captioned action.
2. I commenced this action on behalf of my son to recover damages to compensate him for personal injuries which I alleged were caused by the negligence of the Defendants Hyde Leadership Charter School, Peter Anderson and Jane Doe Teacher.
3. My son A [REDACTED] resides with me in our residence located at [REDACTED] Southern Boulevard, Apt. 1M, Bronx, New York 10549.
4. A [REDACTED]'s date of birth is [REDACTED]. He is presently twelve (12) years old.

5. The incident in which A [REDACTED] was involved occurred on October 9, 2014 at the Hyde Leadership Charter School. The claim which I asserted against the Defendants Hyde Leadership Charter School, Peter Anderson and Jane Doe Teacher was that they failed to provide proper supervision and a safe environment in the school.
6. As a result of the defendants' inadequate supervision, management and control over their students, A [REDACTED] sustained penile pain, swelling, and bruising due to improper student bodily contact and bullying when two of his classmates struck, hit, punched him in the scrotum and penis.
7. A [REDACTED] has not had any medical treatment since November 2014. He has no future medical appointments scheduled. Since November 2014, A [REDACTED] has not offered any complaints regarding his injury. Based on my daily contact with A [REDACTED] and my personal observations of him A [REDACTED] has made a full recovery. There are no physical activities which he is unable to perform, and he has no signs of anxiety.
8. I am represented by counsel in this lawsuit by Joseph A. Maria, Esq. of the Joseph A. Maria, P.C. law firm. I have met with Mr. Maria on numerous occasions to discuss this case. At an October 7, 2019 meeting Mr. Maria advised me that he had been engaged in settlement discussions with counsel for the Defendants and that an offer of \$50,000.00, which he was advised would not be increased, had been offered to settle all claims.
9. To my knowledge all of A [REDACTED]'s medical bills which related to the treatment which he received for his injuries relating to the October 9, 2014 incident have been paid. I am unaware of any liens having been asserted by any of A [REDACTED]'s health providers against the settlement proceeds.
10. The following are the health providers who treated A [REDACTED] for his injury:

- CHAM – Pediatrician – ED, 111 E. 210 Street, Bronx, NY
- Montefiore Hospital -- 111 E. 210 Street, Bronx, NY
- Amanda North, M.D., Montefiore Hospital, 111 E. 210 Street, Bronx, NY
- Hildred Machuca, M.D., 871 Prospect Avenue, Bronx, NY

11. There is no Medicaid or other governmental benefit program lien which has asserted against the settlement proceeds.
12. I am not seeking reimbursement of any amount which I paid in the nature of co-pays from this settlement.
13. I am specifically withdrawing my personal derivative cause of action with prejudice.
14. Pursuant to the retainer agreement into which I entered with counsel it was agreed that the legal fee would be equal to 33 1/3% of the net recovery obtained by judgment or settlement (gross amount less disbursements). I am advised that the file disbursements which my counsel has incurred amount to \$1,188.23. He has reduced same to \$1,000.00.
15. I request that the Court approve my settlement of this action for \$50,000.00. I believe that it is a fair settlement considering the liability issues and the favorable recovery which A [REDACTED] has made from his injuries.
16. I request that the settlement proceeds be distributed as follows:
  - a) \$1,000.00 (disbursements) to Joseph A. Maria, P.C.
  - b) \$16,333.33 (attorneys' fees) to Joseph A. Maria, P.C.
  - c) \$32,666.67 net proceeds to the joint order of Marisol Javier, as Mother and Natural Guardian of A [REDACTED] J [REDACTED] and an officer of \$32,666.67 to be deposited in an account which offers the highest interest.

17. I respectfully submit to this Court as stated above that this is a fair settlement and request  
the Court's approval of this settlement.

  
\_\_\_\_\_  
Marisol Javier

Sworn to before me this  
7 day of October, 2019.

  
\_\_\_\_\_  
Notary Public

JOSEPH A. MARIA  
Notary Public, State of New York  
No. 02MA5018434  
Qualified in Westchester County  
Commission Expires Sept. 27, 2021